

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case
27-CA-206130

Date Filed
9/13/2017

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer
Sexy Pizza 3, LLC

b. Tel. No. (720) 273-6835

c. Cell No.

f. Fax No.

d. Address (Street, city, state, and ZIP code)

2460 Eliot Street
Denver, CO 80218

e. Employer Representative

(b) (6), (b) (7)(C)

g. e-Mail

(b) (6), (b) (7)(C)

h. Number of workers employed
~15

i. Type of Establishment (factory, mine, wholesaler, etc.)
Retail Food Service

j. Identify principal product or service
Pizza

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)
SEE ATTACHMENT A.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

United Food and Commercial Workers, Local 7, AFL-CIO

4a. Address (Street and number, city, state, and ZIP code)

7760 West 38th Avenue
Denver, CO 80033

4b. Tel. No. (303) 425-0897x445

4c. Cell No.

4d. Fax No.

4e. e-Mail
tmcnamara@ufcw7.com

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) United Food and Commercial Workers International Union

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By 
(signature of representative or person making charge)

Mathew Shechter, Counsel
(Print/type name and title or office, if any)

Tel. No. (303) 333-8700

Office, if any, Cell No.

Fax No.

e-Mail
mss@18thavelaw.com

Address 1640 East 18th Avenue, Denver, CO 80218

09/13/2017
(date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

ATTACHMENT A

1. Within the past six months, the Employer discharged, or caused to be discharged, (b) (6), (b) (7)(C) from (b) (6), (b) (7)(C) employment, because of (b) (6), (b) (7)(C) protected activities, in violation of Sections 8(a)(1) and (3) of the Act.
2. On or about August 30, 2017, the Employer altered and harshened longstanding disciplinary policies, in violation of Section 8(a)(1) of the Act.
3. Since about August 30, 2017, the Employer has promised and granted employees benefits, including not having to share tips with supervisors, in violation of Sections 8(a)(1) and (3) of the Act.
4. On or about September 8, 2017, the Employer solicited grievances from employees, with an express promise to remedy them, in violation of Section 8(a)(1) of the Act.
5. On or about September 8, 2017, the Employer made threats to employees, in violation of Section 8(a)(1) of the Act.
6. On or about September 8, 2017, the Employer offered to pay employees, not otherwise scheduled to work, one (1) hour's pay for showing up to vote in the election to be held on September 18, 2017, in violation of Section 8(a)(1) of the Act.
7. Within the past six months, the Employer has engaged in other unfair labor practices, in violation of Sections 8(a)(1) and/or (3) of the Act.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 27
Byron Rogers Federal Office Building
1961 Stout Street, Suite 13-103
Denver, CO 80294

Agency Website: www.nlr.gov
Telephone: (303)844-3551
Fax: (303)844-6249



Download
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Mobile App

September 13, 2017

(b) (6), (b) (7)(C)

Sexy Pizza 3, LLC
2460 Eliot St.
Denver, CO 80211-4708

Re: Sexy Pizza 3, LLC
Case 27-CA-206130

Dear (b) (6), (b) (7)(C):

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney MICHELLE DEVITT whose telephone number is (720)598-7402. If this Board agent is not available, you may contact Deputy Regional Attorney LETICIA PENA whose telephone number is (720)598-7412.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly. **Due to the nature of the allegations in the enclosed unfair labor practice charge, we have identified this case as one in which injunctive relief pursuant to Section 10(j) of the Act may be appropriate.** Therefore, in addition to investigating the merits of the unfair labor practice allegations, the Board agent will also inquire into those factors relevant to making a determination as to whether or not 10(j) injunctive relief is appropriate in this case. Accordingly, please include your position on the appropriateness of Section 10(j) relief when you submit your evidence relevant to the investigation.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

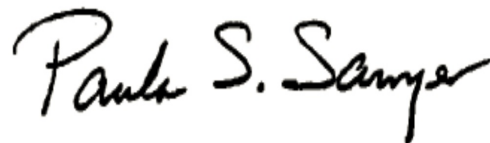
We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

Procedures: We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website, www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Paula S. Sawyer". The signature is written in a cursive, flowing style.

PAULA SAWYER
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 27
Byron Rogers Federal Office Building
1961 Stout Street, Suite 13-103
Denver, CO 80294

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Telephone: (303)844-3551
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Download
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September 13, 2017

United Food & Commercial Workers
Union, Local 7, AFL-CIO
7760 W. 38th Ave., Ste. 400
Wheat Ridge, CO 80033-6100

Re: Sexy Pizza 3, LLC
Case 27-CA-206130

Dear Sir or Madam:

The charge that you filed in this case on September 13, 2017 has been docketed as case number 27-CA-206130. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney MICHELLE DEVITT whose telephone number is (720)598-7402. If this Board agent is not available, you may contact Deputy Regional Attorney LETICIA PENA whose telephone number is (720)598-7412.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or at the Regional office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Procedures: We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website www.nlr.gov or from the Regional Office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

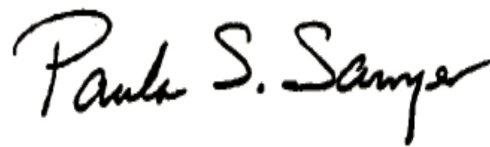
We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Qualifying for Backpay: We are just beginning to investigate your charge and no decision has been made regarding the merits of your case. However, it is important that employees who might be entitled to backpay because of loss of employment understand their obligation to look for work in order to qualify for backpay if your case has merit. Accordingly, we urge you to promptly provide the Board agent with the names and addresses of all employees who might be entitled to backpay as a result of the charge you filed.

If backpay is due to an employee, the Board requires that the employee offset the backpay by promptly beginning to look for another job in the same or similar line of work. The Board has held that a reasonably diligent employee should begin searching for interim work within 2 weeks after the employee's termination or layoff or a refusal to hire the employee. If an employee cannot establish that he or she actively tried to mitigate his or her losses, the amount of money owed to the employee might be reduced.

Employees who might be owed backpay should keep careful records of when and where they have sought employment and of job search expenses such as mileage, parking, and copying resumes. Specifically, they should keep a record of each time they attempt to find work, including the date, name of the company, name of person with whom they spoke, the position sought, and the response received.

Very truly yours,

A handwritten signature in black ink that reads "Paula S. Sawyer". The signature is written in a cursive, flowing style.

PAULA SAWYER
Regional Director

cc: Matthew Shechter, ESQ.
1640 E. 18th Ave.
Denver, CO 80218-1202

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

SEXY PIZZA 3, LLC Employer, and UNITED FOOD & COMMERCIAL WORKERS UNION, LOCAL 7, AFL-CIO Petitioner
--

CASE 27-CA-206130

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
Sexy Pizza 3, LLC


IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☒ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Todd Fredrickson	
MAILING ADDRESS: 1801 California Street, Suite 2700, Denver, 80202	
E-MAIL ADDRESS: tfredrickson@fisherphillips.com	
OFFICE TELEPHONE NUMBER: 303-218-3660	
CELL PHONE NUMBER:	FAX: 303-218-3650
SIGNATURE: 	
(Please sign in ink.)	
DATE: 09/26/17	

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

SEXY PIZZA 3, LLC Employer,
and
UNITED FOOD & COMMERCIAL WORKERS UNION, LOCAL 7, AFL-CIO Petitioner

CASE 27-CA-206130

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
Sexy Pizza 3, LLC

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

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(REPRESENTATIVE INFORMATION)

NAME: Kaitlin Fox Hinkle	
MAILING ADDRESS: 2011 Crystal Drive, Suite 400, Arlington, VA 22202	
E-MAIL ADDRESS: kfoxhinkle@fisherphillips.com	
OFFICE TELEPHONE NUMBER: 703-682-6863	
CELL PHONE NUMBER:	FAX: 303-218-3650
SIGNATURE: s/ Kaitlin Fox Hinkle (Please sign in ink.)	
DATE: 09/26/17	

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NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

United Food and Commercial Workers, Local 7,

Charging Party,

and

CASE 27-CA-206130

Sexy Pizza LLC and Sexy Pizza 3 LLC,

Charged Parties.



REGIONAL DIRECTOR



EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570



GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____

United Food and Commercial Workers, Local 7

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:



REPRESENTATIVE IS AN ATTORNEY



IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Todd McNamara, General Counsel

MAILING ADDRESS:

7760 W 38th Ave, Suite 400, Wheat Ridge CO 80033

E-MAIL ADDRESS: tmcnamara@ufcw7.com

OFFICE TELEPHONE NUMBER: (303) 425-0897 extension 445

CELL PHONE NUMBER:

FAX: (303) 403-1387

SIGNATURE:

(Please sign in ink.)

DATE:

12/5/17

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

United Food and Commercial Workers, Local 7,

Charging Party,

and

CASE 27-CA-206130

Sexy Pizza LLC and Sexy Pizza 3 LLC,

Charged Parties.



REGIONAL DIRECTOR



EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570



GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____

United Food and Commercial Workers, Local 7

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:



REPRESENTATIVE IS AN ATTORNEY



IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Raja Raghunath, Associate General Counsel

MAILING ADDRESS:

7760 W 38th Ave, Suite 400, Wheat Ridge CO 80033

E-MAIL ADDRESS: rajaraghunath@ufcw7.com

OFFICE TELEPHONE NUMBER: (303) 425-0897 extension 429

CELL PHONE NUMBER: (303) 250-0773

FAX: (303) 403-1387

SIGNATURE:

(Please sign in ink.)

DATE:

12/5/17

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

FIRST AMENDED CHARGE AGAINST EMPLOYER**INSTRUCTIONS:**

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
27-CA-206130	12/5/2017

File an original of this charge with NLRB Regional Director in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Sexy Pizza, LLC and Sexy Pizza 3, LLC, a single employer		b. Tel. No. (303)420-7526
		c. Cell No. (b) (6), (b) (7)(C)
d. Address (street, city, state ZIP code) 2460 Eliot St., Denver, CO 80211-4708 (Jefferson Park) 1018 E. 11 th Avenue, Denver, CO 80218 (Capitol Hill)	e. Employer Representative (b) (6), (b) (7)(C)	f. Fax No.
		g. e-Mail (b) (6), (b) (7)(C)
		h. Dispute Location (City and State) Denver, CO
i. Type of Establishment (factory, nursing home, hotel) Retail Food Service	j. Principal Product or Service Pizza	k. Number of workers at dispute location ~15 (Jefferson Park) ~21 (Capitol Hill)

1. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

About (b) (6), (b) (7)(C) 2017, the Employer, at its Capitol Hill location, discharged, or caused to be discharged (b) (6), (b) (7)(C) from employment, because of (b) (6), (b) (7)(C) protected activities in violation of Sections 8(a)(1) and (3) of the Act.

On about August 30, 2017, the Employer, at its Jefferson Park location:

1. Altered its tip policies to exclude shift leads from tip-sharing, thereby granting certain unit employees a benefit while resulting in a loss of benefits to lead employees, in response to employees' union activities and to dissuade union support in violation of Section 8(a)(3) and (1) of the Act.
2. Announced and implemented altered and harshened disciplinary policies in response to employees' union activities in violation of 8(a)(1) of the Act

On about September 9, 2017, the Employer, at its Jefferson Park location, solicited grievances from employees, with express and implied promises to remedy them, and threatened employees that they would have limited access to management if they voted for a Union, in violation of 8(a)(1) of the Act.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

United Food & Commercial Workers Union, Local 7, AFL-CIO

4a. Address (street and number, city, state, and ZIP code)

7760 W. 38th Ave., Ste. 400, Wheat Ridge, CO 80033-6100

4b. Tel. No.

(303)425-0897

4c. Cell No.

4d. Fax No.

(303)406-7921

4e. e-Mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

United Food and Commercial Workers International Union

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

Tel. No.

(303)425-0897

Office, if any, Cell No.

By:

Todd McNamara, General Counsel

(signature of representative or person making charge)

Print Name and Title

Fax No.

(303)406-7921

Address: 7760 W. 38th Ave., Ste. 400, Wheat Ridge, CO 80033-6100

Date: 12/5/17

e-Mail



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 27
Byron Rogers Federal Office Building
1961 Stout Street, Suite 13-103
Denver, CO 80294

Agency Website: www.nlrb.gov
Telephone: (303)844-3551
Fax: (303)844-6249



Download
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December 6, 2017

(b) (6), (b) (7)(C)

Sexy Pizza 3, LLC
2460 Eliot St.
Denver, CO 80211-4708

Re: Sexy Pizza 3, LLC
Case 27-CA-206130

Dear (b) (6), (b) (7)(C)

Enclosed is a copy of the first amended charge that has been filed in this case.

Investigator: This charge is being investigated by Field Attorney MICHELLE DEVITT whose telephone number is (720)598-7402. If the agent is not available, you may contact Deputy Regional Attorney LETICIA PENA whose telephone number is (720)598-7412.

Presentation of Your Evidence: As you know, we seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations in the first amended charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

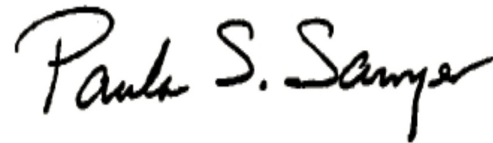
Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Procedures: Your right to representation, the means of presenting evidence, and a description of our procedures, including how to submit documents, was described in the letter sent to you with the original charge in this matter. If you have any questions, please contact the Board agent. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains

the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

Very truly yours,

A handwritten signature in black ink that reads "Paula S. Sawyer". The signature is written in a cursive, flowing style.

PAULA SAWYER
Regional Director

Enclosure: Copy of first amended charge

cc: Kaitlin Fox Hinkle, Esq.
Fisher Phillips Associate
2011 Crystal Dr Ste 400
Arlington, VA 22202-3709

Todd A. Fredrickson, Esq.
Fisher & Phillips, LLP
1801 California St. Ste. 2700
Denver, CO 80202-2828



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

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December 6, 2017

United Food & Commercial Workers Union, Local 7, AFL-CIO
7760 W. 38th Ave. Ste. 400
Wheat Ridge, CO 80033-6100

Re: Sexy Pizza 3, LLC
Case 27-CA-206130

Dear Sir or Madam:

We have docketed the first amended charge that you filed in this case.

Investigator: This charge is being investigated by Field Attorney MICHELLE DEVITT whose telephone number is (720)598-7402. If the agent is not available, you may contact Deputy Regional Attorney LETICIA PENA whose telephone number is (720)598-7412.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. If you have additional evidence regarding the allegations in the first amended charge and you have not yet scheduled a date and time for the Board agent to obtain that evidence, please contact the Board agent to arrange to present that evidence. If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed.

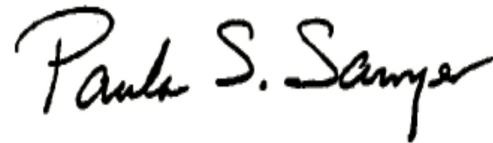
Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Procedures: Your right to representation, the means of presenting evidence, and a description of our procedures, including how to submit documents, was described in the letter sent to you with the original charge in this matter. If you have any questions, please contact the Board agent. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains

the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

Very truly yours,

A handwritten signature in black ink that reads "Paula S. Sawyer". The signature is written in a cursive, flowing style.

PAULA SAWYER
Regional Director

cc: Matthew Shechter, Esq.
1640 E. 18th Ave.
Denver, CO 80218-1202

Todd McNamara, Esq.
United Food & Commercial Union Local 7
7760 W. 38th Ave. Ste. 400
Wheat Ridge, CO 80033-6100

Raja Raghunath, Associate General Counsel
United Food & Commercial Union Local 7
7760 W. 38th Ave. Ste. 400
Wheat Ridge, CO 80033

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
SETTLEMENT AGREEMENT

IN THE MATTER OF

Sexy Pizza 1, LLC and Sexy Pizza 3, LLC

Case 27-CA-206130

Subject to the approval of the Regional Director for the National Labor Relations Board, the Charged Parties and the Charging Party **HEREBY AGREE TO SETTLE THE ABOVE MATTER AS FOLLOWS:**

POSTING OF NOTICE — After the Regional Director has approved this Agreement, the Regional Office will send copies of the approved Notice to the Charged Parties in English and additional languages if the Regional Director decides that it is appropriate to do so. A responsible official of the Charged Parties will each sign and date those Notices and immediately post them at 2460 Eliot St., Denver, CO 80211 and 1018 E. 11th Ave., Denver, CO 80218. The Charged Parties will keep all Notices posted for 60 consecutive days after the initial posting.

COMPLIANCE WITH NOTICE — The Charged Parties will comply with all the terms and provisions of said Notice.

NON-ADMISSION CLAUSE — By entering into this Settlement Agreement, the Charged Parties do not admit that they have violated the National Labor Relations Act.

BACKPAY — Within 14 days from approval of this Agreement, the Charged Parties will make whole the employee(s) named below by payment to them of the amounts opposite their names. The Charged Parties assume joint and several liability for these payments. The Charged parties are responsible for paying their share of FICA and will make appropriate withholdings from the backpay portion due to the named employee(s). The Charged Parties will remit a separate check for the interest and expenses portion of the backpay due (if applicable), from which no withholdings shall be made. The Charged Parties will also file with the Regional Director a completed Report of Backpay Paid under the National Labor Relations Act, which the Regional Director will file with the Social Security Administration for the purpose of allocating the payment to the appropriate calendar year(s). (b) (6), (b) (7)(C) has waived reinstatement to (b) (6), (b) (7)(C) former position.

<u>EMPLOYEE</u>	<u>BACKPAY</u>	<u>INTEREST</u>	<u>TOTAL</u>
(b) (6), (b) (7)(C)	\$3968	\$32	\$4000
(b) (6), (b) (7)(C)	\$92	\$1	\$93
(b) (6), (b) (7)(C)	\$64	\$1	\$65
(b) (6), (b) (7)(C)	\$135	\$1	\$136

SCOPE OF THE AGREEMENT — This Agreement settles only the allegations in the above-captioned case(s), including all allegations covered by the attached Notice to Employees made part of this agreement, and does not settle any other case(s) or matters. It does not prevent persons from filing charges, the General Counsel from prosecuting complaints, or the Board and the courts from finding violations with respect to

matters that happened before this Agreement was approved regardless of whether General Counsel knew of those matters or could have easily found them out. The General Counsel reserves the right to use the evidence obtained in the investigation and prosecution of the above-captioned case(s) for any relevant purpose in the litigation of this or any other case(s), and a judge, the Board and the courts may make findings of fact and/or conclusions of law with respect to said evidence.

PARTIES TO THE AGREEMENT — If the Charging Party fails or refuses to become a party to this Agreement and the Regional Director determines that it will promote the policies of the National Labor Relations Act, the Regional Director may approve the settlement agreement and decline to issue or reissue a Complaint in this matter. If that occurs, this Agreement shall be between the Charged Parties and the undersigned Regional Director. In that case, a Charging Party may request review of the decision to approve the Agreement. If the General Counsel does not sustain the Regional Director's approval, this Agreement shall be null and void.

AUTHORIZATION TO PROVIDE COMPLIANCE INFORMATION AND NOTICES DIRECTLY TO CHARGED PARTIES — Counsel for the Charged Parties authorizes the Regional Office to forward the cover letter describing the general expectations and instructions to achieve compliance, a conformed settlement, original notices and a certification of posting directly to the Charged Parties. If such authorization is granted, Counsel will be simultaneously served with a courtesy copy of these documents.

Yes _____ No _____
 Initials Initials

PERFORMANCE — Performance by the Charged Parties with the terms and provisions of this Agreement shall commence immediately after the Agreement is approved by the Regional Director, or if the Charging Party does not enter into this Agreement, performance shall commence immediately upon receipt by the Charged Parties of notice that no review has been requested or that the General Counsel has sustained the Regional Director.

The Charged Parties agree that in case of non-compliance with any of the terms of this Settlement Agreement by the Charged Parties, and after 14 days' notice from the Regional Director of the National Labor Relations Board of such non-compliance without remedy by the Charged Parties, the Regional Director will issue a Complaint that includes the allegations covered by the Notice to Employees, as identified above in the Scope of Agreement section, as well as filing and service of the charge(s), commerce facts necessary to establish Board jurisdiction, labor organization status, appropriate bargaining unit (if applicable), and any other allegations the General Counsel would ordinarily plead to establish the unfair labor practices.

NOTIFICATION OF COMPLIANCE — Each party to this Agreement will notify the Regional Director in writing what steps the Charged Parties have taken to comply with the Agreement. This notification shall be given within 5 days, and again after 60 days, from the date of the approval of this Agreement. If the Charging Party does not enter into this Agreement, initial notice shall be given within 5 days after notification from the Regional Director that the Charging Party did not request review or that the General Counsel sustained the Regional Director's approval of this agreement. No further action shall be taken in the above captioned case(s) provided that the Charged Parties comply with the terms and conditions of this Settlement Agreement and Notice.

Charged Party Sexy Pizza, LLC		Charging Party United Food & Commercial Workers Union, Local 7, AFL-CIO	
By: Name and Title	Date	By: Name and Title	Date
(b) (6), (b) (7)(C)	12/20/2017	/s/ Todd McNamara, General Counsel	12/20/17
Print Name and Title below (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)		Print Name and Title below Todd McNamara, General Counsel	
Charged Party Sexy Pizza 3, LLC			
By: Name and Title	Date		
(b) (6), (b) (7)(C)	12/20/17		
(b) (6), (b) (7)(C)			
Print Name and Title below (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)			
Recommended By:	Date	Approved By:	Date
MICHELLE DEVITT	Digitally signed by MICHELLE DEVITT DN: c=US, o=U.S. Government, ou=National Labor Relations Board, cn=MICHELLE DEVITT, 0.9.2342.19200300.100.1.1=63001000436342 Date: 2017.12.20 14:15:08 -07'00'	<i>Paul S. Singer</i> Regional Director, Region	12-20-17

(To be printed and posted on official Board notice form)

FEDERAL LAW GIVES YOU THE RIGHT TO:

- Form, join, or assist a union;
- Choose a representative to bargain with us on your behalf;
- Act together with other employees for your benefit and protection;
- Choose not to engage in any of these protected activities.

WE WILL NOT do anything to prevent you from exercising the above rights.

WE WILL NOT promise you better benefits or give you better benefits to discourage you from supporting the United Food & Commercial Workers Union, Local 7, AFL-CIO (Union).

WE WILL NOT withhold benefits to discourage you from supporting the Union.

WE WILL NOT ask you about your complaints and grievances and imply that we will fix them in order to discourage you from supporting the Union.

WE WILL NOT tell you that we will more strictly enforce rules, including cell phone use, work performance, and tardiness expectations because of employee support for the Union.

WE WILL NOT alter, or more strictly monitor and enforce our policies because of your Union membership or support.

WE WILL NOT fire employees because of their Union membership or support.

WE WILL NOT in any like or related manner interfere with your rights under Section 7 of the Act.

WE WILL pay employees for the wages and other benefits they lost because we changed the tipping pool policy to exclude Shift Leaders from being tipped out.

WE WILL restore the tip policy that allowed Shift Leaders to share in tips to the extent that we have not already done so.

WE WILL pay employee (b) (6), (b) (7)(C) for the wages and other benefits (b) (6) lost because we fired (b) (6), (b) (7) has waived any right to reinstatement to (b) (6), (b) (7) former position.

WE WILL remove from our files all references to the discharge of employee (b) (6), (b) (7)(C) and **WE WILL** notify (b) (6), (b) (7) in writing that this has been done and that the discharge will not be used against (b) (6), (b) (7) in any way.

Sexy Pizza, LLC

(Employer)

(b) (6), (b) (7) (b) (6), (b) (7) (b) (6), (b) (7)

Dated: _____ By: _____
(Representative) (Title)

Sexy Pizza 3, LLC

(Employer)

Dated: _____ By: _____
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. We conduct secret-ballot elections to determine whether employees want union representation and we investigate and remedy unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below or you may call the Board's toll-free number 1-866-667-NLRB (1-866-667-6572). Hearing impaired persons may contact the Agency's TTY service at 1-866-315-NLRB. You may also obtain information from the Board's website: www.nlr.gov.

Telephone:

Hours of Operation:

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the above Regional Office's Compliance Officer.

CONFIRMATION OF 60-DAY POSTING

**Sexy Pizza 1, LLC and Sexy Pizza 3, LLC
Case 27-CA-206130**

The Notice to Employees provided by the National Labor Relations Board in the above matter remained continuously and conspicuously posted for at least 60 days.

CHARGED PARTY/RESPONDENT

By: (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)
Title: (b) (6), (b) (7)(C)
Date: 2/27/2018

CERTIFICATION OF COMPLIANCE
(PART ONE)

RE: **Sexy Pizza 1, LLC and Sexy Pizza 3, LLC**
Case 27-CA-206130

Physical Posting

The signed and dated Notice to Employees in the above matter was posted on
(date) 12/27/2017 at the following locations: (List specific places of posting to
include addresses)

1018 E 11th Ave, Denver, CO 80218 - posted in plain
view on cooler door next to cleaning checklists.

2466 Flatt St., Denver, CO 80211 - posted in plain
view next to schedule and other employee notices.

I have completed this Certification of Compliance and state under penalty of perjury that it is
true and correct.

CHARGED PARTY/RESPONDENT

By: (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)
Title: (b) (6), (b) (7)(C)
Date: 12/27/2017

This form should be returned to the Compliance Officer, together with **ONE** original Notice,
dated and signed in the same manner as those posted. If the Certification of Compliance Part
One and signed Notice is returned via e-file or e-mail, no hard copies of the Certification of
Compliance Part One or Notice are required.



NOTICE TO EMPLOYEES

POSTED PURSUANT TO A SETTLEMENT AGREEMENT APPROVED BY A REGIONAL DIRECTOR OF THE NATIONAL LABOR RELATIONS BOARD

AN AGENCY OF THE UNITED STATES GOVERNMENT

FEDERAL LAW GIVES YOU THE RIGHT TO:

- Form, join, or assist a union;
- Choose a representative to bargain with us on your behalf;
- Act together with other employees for your benefit and protection;
- Choose not to engage in any of these protected activities.

WE WILL NOT do anything to prevent you from exercising the above rights.

WE WILL NOT promise you better benefits or give you better benefits to discourage you from supporting the United Food & Commercial Workers Union, Local 7, AFL-CIO (Union).

WE WILL NOT withhold benefits to discourage you from supporting the Union.

WE WILL NOT ask you about your complaints and grievances and imply that we will fix them in order to discourage you from supporting the Union.

WE WILL NOT tell you that we will more strictly enforce rules, including cell phone use, work performance, and tardiness expectations because of employee support for the Union.

WE WILL NOT alter, or more strictly monitor and enforce our policies because of your Union membership or support.

WE WILL NOT fire employees because of their Union membership or support.

WE WILL NOT in any like or related manner interfere with your rights under Section 7 of the Act.

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlr.gov and the toll-free number (866)867-NLRB (6572).

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the above Regional Office's Compliance Officer.



NOTICE TO EMPLOYEES



POSTED PURSUANT TO A SETTLEMENT AGREEMENT APPROVED BY A REGIONAL DIRECTOR OF THE NATIONAL LABOR RELATIONS BOARD

AN AGENCY OF THE UNITED STATES GOVERNMENT

WE WILL pay employees for the wages and other benefits they lost because we changed the tipping pool policy to exclude Shift Leaders from being tipped out.

WE WILL restore the tip policy that allowed Shift Leaders to share in tips to the extent that we have not already done so.

WE WILL pay employee (b) (6), (b) (7)(C) for the wages and other benefits (b) (6), (b) (7)(C) lost because we fired (b) (6), (b) (7)(C) has waived any right to reinstatement to (b) (6), (b) (7)(C) former position.

WE WILL remove from our files all references to the discharge of employee (b) (6), (b) (7)(C) and WE WILL notify (b) (6), (b) (7)(C) in writing that this has been done and that the discharge will not be used against (b) (6), (b) (7)(C) in any way.

Sexy Pizza, LLC

(Employer)

Dated: 12-27-17

By

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(Title)

Sexy Pizza 3, LLC

(Employer)

Dated: 12/27/17

By

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Hearing impaired callers who wish to speak to an Agency representative should contact the Federal Relay Service by visiting its website at <http://www.federalrelay.us/tty>, calling one of its toll free numbers and asking its Communications Assistant to call our toll free number at 1-844-762-6572.

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlr.gov and the toll-free number (866)667-NLRB (6572).

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This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the above Regional Office's Compliance Officer.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 27
Byron Rogers Federal Office Building
1961 Stout Street, Suite 13-103
Denver, CO 80294

Agency Website: www.nlrb.gov
Telephone: (303)844-3551
Fax: (303)844-6249

March 7, 2018

Todd A. Fredrickson, Esq.
Fisher & Phillips, LLP
1801 California St.
Ste. 2700
Denver, CO 80202-2828

Re: Sexy Pizza 1, LLC and Sexy Pizza 3, LLC
Case 27-CA-206130

Dear Mr. Fredrickson:

The above-captioned case has been closed on compliance. Please note that the closing is conditioned upon continued observance of the informal Settlement Agreement.

Very truly yours,

Paula Sawyer
Regional Director

cc: Matthew Shechter, Esq.
1640 E. 18th Ave.
Denver, CO 80218-1202

Todd McNamara, Esq.
Raja Raghunath, Esq.
United Food & Commercial Union,
Local 7
7760 W. 38th Ave., Ste. 400
Wheat Ridge, CO 80033-6100

Kaitlin Fox Hinkle, Esq.
Fisher & Phillips, LLP
2011 Crystal Dr., Ste. 400
Arlington, VA 22202-3709

Sexy Pizza 1, LLC and Sexy Pizza 3, LLC - 2 -
Case 27-CA-206130

(b) (6), (b) (7)(C)

Sexy Pizza 1, LLC and Sexy Pizza 3, LLC
2460 Eliot St.
Denver, CO 80211-4708